IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

WEDNESDAY, THE 4TH APRIL 2007 / 14TH CHAITHRA 1929

WP(C).No. 9143 of 2007(L)

PETITIONER:

JOSE DEVASSY, S/O DEVASSY,
THEKKINEDATH HOUSE, POOVATHUSSERRY,
PRAKKADAVU P.O., ERNAKULAM DISTRICT.

BY ADV. SRI.S.SUDHISH KUMAR,
SRI.K.Y.TOMY,
SRI.K.B.DAYAL.

RESPONDENT:

THE TAHSILDAR, ALUVA TALUK,
ALUVA, ERNAKULAM.

BY GOVT. PLEADER SRI. MUHAMMED RAFIQ.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 04/04/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.9143/2007:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE AGREEMENT EXECUTED BY THE PETITIONER AND ONE MR. JOLLY PAUL, DTD. 06/08/99.

EXT.P.2: COPY OF THE SALE DEED EXECUTED WITH REGARD TO THE OWNERSHIP OF THE FLAT AS WELL AS UNDIVIDED LAND PROPERTY DT. 06/03/96.

EXT.P.3: COPY OF THE CERTIFICATE DTD. 17/06/2005 ISSUED BY THE NEDUMBASSERY GRAMA PANCHAYATH.

EXT.P.4: COPY OF THE ASSESSMENT PROCEEDINGS ALONGWITH FORM-V ASSESSMENT ORDER.

EXT.P.5: COPY OF THE DEMAND NOTICE ISSUED U/S. 10 OF THE KERALA BUILDING TAX ACT DT. 10/02/2007.

EXT.P.6: COPY OF THE APPLICATION DTD. 15/03/2007 SUBMITTED BY THE PETITIONER.

EXT.P.7: COPY OF THE R.R. NOTICE ISSUED BY THE RESPONDENT TO THE PETITIONER.

//TRUE COPY//

prv.

K.BALAKRISHNAN NAIR,J.

WP(C)NO.9143 OF 2007-L

Judgment

The petitioner attacks Ext.P4 assessment order passed by the Tahsildar under the Building Tax Act on the ground that the same is passed in violation of the principles of natural justice. According to him, the principle, 'he who heard must decide' has been violated. In this case, the predecessor-in-office of the present Tahsildar heard the petitioner, but the order has been passed by the present incumbent. That means, the order is passed by the present incumbent, without hearing the petitioner. So, it is submitted that the order is liable to be set aside on that ground. Though the learned Government Pleader was directed to get the file leading to Ext.P4, it was not produced. Further, I think that the matter should be reconsidered in the light of the directions issued by this Court in Writ Petition (C) No.4981/07 and connected cases and also the further directions issued in OP No.26467/02 and connected cases. Accordingly, Exts.P4, P5 and p7 are quashed. The respondent shall reconsider the matter as directed in the above said Judgments. The time limit fixed in those Judgments will govern this case also. So, the petitioner may produce all the materials in support of his claim for separate assessment of the flats on or before 30.04.2007 before the respondent.

The Writ Petition is disposed of as above.

04.04.2007 **K.BALAKRISHNAN NAIR,JUDGE**

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